Retail Directory Assistance Competition

On January 9, 2002, the Commission issued a notice of proposed rulemaking that asked "whether the market for the competitive provision of directory assistance has developed to the point that additional steps must now be taken to ensure that all competitors have the same opportunity for access to customers."[1] Over the last two years, the Commission has developed an extensive and highly detailed record that demonstrates that retail directory assistances should be opened to competition through the removal of the local exchange carriers' (LECs') control of the 411 short code, and the institution of uniform access numbers for all DA providers using a 555-XXXX format.

I. The Directory Assistance Market and the Need for Competition.

The directory assistance market is robust and growing. According to industry statistics, consumers make more than six billion directory assistance calls every year, accounting for upwards of $6 billion in revenue.[2] This market is projected to grow substantially. Two leading market analysts expect that annual directory assistance call volume will expand from approximately 6.4 billion calls in 2003 to 7 billion calls in 2008.[3] Annual revenues from directory assistance are likewise expected to rise from more than $5 billion in 2003 to $7-8 billion in 2008.[4] Despite the size of the market, competitors are foreclosed from competing in the retail wireline directory assistance market because of the LECs' control of the 411 short code.[5]

Consumer groups assert that competition in the retail directory assistance market can bring a variety of benefits to consumers.[6] Retail DA competition will bring lower prices to consumers – much needed relief given the escalating prices for DA in recent years. Since the passage of the 1996 Telecommunications Act, prices for most telecommunications services have

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[1] *Provision of Directory Listing Information*, 17 FCC Rcd 1164, ¶ 1 (2002) (NPRM).

[2] Pierz Group (2004) ($5.7 billion revenue in 2004); Zelos Group, Wholesale Directory Assistance: Market Review and Forecast (Jan. 2004) ($6.3 billion revenue in 2004). Pierz and Zelos further separate these numbers into wireless and wireline components. For 2004, Zelos reports $2.03 billion revenue for wireless and $4.28 billion for wireline. In the same year, Pierz reports $2.45 billion for wireless and $3.21 billion for wireline.

[3] Pierz Group (6.4 billion to 6.9 billion); Zelos Group (6.3 billion to 7.6 billion). Incumbents have stated that directory assistance "LEC call volumes have decreased 50-60% since 1995." Letter from Mary L. Henze, BellSouth, to Marlene Dortch, FCC (May 11, 2004). Both Zelos and Pierz, however, expect that annual directory assistance call volume will expand. Even when wireless DA calls are excluded, the analysts report a very stable wireline DA market: Zelos reports 4.85 billion calls in 2003, and 4.83 billion calls estimated for 2008; Pierz reports 4.8 billion calls in 2003 and predicts 4.5 billion calls in 2008.

[4] Pierz Group ($5.3 billion to $6.9 billion); Zelos Group ($5.6 billion to $8.4 billion).

[5] *See e.g.*, WorldCom Reply Comments at 9 (Apr. 30, 2002); Telegate Reply Comments at 8-9 (Apr. 30, 2002); *see also* NPRM ¶ 14 ("LEC monopoly over the 411 dialing code for DA").

[6] *See* Letter from Michael W. Naylor, AARP, to Marlene H. Dortch, FCC (Aug. 20, 2003); Letter from Susan Grant, National Consumers League, to Marlene H. Dortch, FCC (Sept. 12, 2003); Consumer Federation of America Comments (Apr. 29, 2002); *see also* Telegate Reply Comments at 1-4; WorldCom Comments (Apr. 1, 2002).

declined. For example, the producer price index for residential toll service at the end of 2003 was only two-thirds of its 1995 price. But prices for retail directory assistance have gone in the other direction: today they have climbed to 120% of the 1995 price.[7]

Consumers also will benefit from a richer variety of services, especially enhanced services, with the introduction of competition. Enhanced services include movie listings, driving directions, restaurant reservations, nearest-to-me listings, weather and sports reports, and foreign language directory listings.[8] The potential entrants that will bring these services to the market include companies that have been successful in the wholesale market, selling their services to wireless carriers and CLECs, as well as companies that have competed for DA consumers in many European countries. These companies already possess highly developed service offerings that can bring benefits directly to the retail market as soon as the regulatory barriers to retail competition are removed.[9] Though some services, such as AT&T's 00-INFO, Metro One's Infone, and MCI's 10-10-9000, have tried to meet this need for enhanced services, the dialing disparity of competing against the 411 monopoly has prevented these services from succeeding.[10]

The existence of alternative (and cumbersome) sources of directory assistance, such as the Internet and published directories, does not lessen the need for competitive policies in the retail DA market. Some alternatives, such as the Internet, are not effective substitutes for retail wireline directory assistance because many Americans lack access to a computer; the Internet databases are not updated frequently; and these services do not offer live-operator assistance, which is essential for category searches, "wildcard" variable spelling searches, and assistance in emergency situations.[11] Published directories are stale the moment they are distributed to consumers. Other companies, such as AT&T and MCI, which have sought to enter

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[7] Bureau of Labor Statistics, Producer Price Index, Series 4813#21 and 4813#11401 (1995-2003).

[8] *See* Telegate Reply Comments at 1-2; Letter from Chris Murray, Consumers Union, to Michael. K. Powell, FCC (Apr. 29, 2002); WorldCom Comments at 5-6.

[9] *See* Letter from Bob Anthony, Commissioner, Okla. Corp. Comm., to Marlene H. Dortch, FCC (Aug. 26, 2003); Letter from Michael W. Naylor, AARP, *supra* note 6; Letter from Mary Newcomer Williams, Counsel for InfoNXX, to Marlene H. Dortch, FCC (June 25, 2003); Metro One Reply Comments (Apr. 30, 2002); Telegate Comments (Apr. 1, 2002).

[10] *See* Kathleen A. Pierz, Competition 61-62 (2003); AT&T Comments at 10 (Apr. 1, 2002); *see also* Letter from Gerard Waldron, Counsel for InfoNXX, to Marlene H. Dortch, FCC (June 6, 2003); WorldCom Reply Comments at 9; Telegate Reply Comments at 8-9. Telegate, one of the most successful competitive DA providers in Europe, has effectively left the U.S. market because the market is not open to competition. *President & CFO of Telegate Inc. sees significant chance in wireless side of US directory assistance market*, Wall Street Transcript, http://www.twst.com/notes/articles/lws049.html (Nov. 28, 2002). Metro One recently reported that, after an extensive and well-financed advertising campaign featuring celebrity endorsements, it has just 70,000 users of its Infone service. Press Release, Metro One Reports 2004 First Quarter Financial Results (Apr. 23, 2004). By comparison, the ILECs will process *three to four billion* wireline DA calls this year without spending one penny in retail DA advertising.

[11] *See* Pierz, supra note 10, at 62 (free online databases are nine to 24 months outdated and cannot perform complex searches); American Foundation for the Blind Comments (Apr. 30, 2002); *see also* Letter from Michael W. Naylor, AARP, *supra* note 6; WorldCom Reply Comments.

the market with longer dial strings, also do not provide an effective substitute. This Commission time and again has observed, from its experience in long distance competition, that robust competition only comes with dialing parity.[12]

Many European countries have taken steps to promote competition in their retail directory assistance markets. The experiences of these countries show that retail competition can succeed under the right regulatory conditions, and a critical condition is genuine numbering parity.[13] Those countries that have retained the incumbent's preferential short code – or even adopted competitive codes whose format is based on suffixes added to the incumbent's code – have found competition floundering.[14] Other markets, such as Germany, the U.K., and Ireland, have created robust competition by ensuring that all providers have genuine dialing parity.[15]

Countries that have instituted genuine dialing parity have been rewarded with lower prices, greater service variety, and higher service quality for their citizens.[16] In the U.K., prices for basic services – those on par with services available before competition – have fallen 30% to 50% below the incumbent's pre-competition price.[17] Service quality in the U.K., which was notoriously bad before competition, has been drastically improved since retail competition was introduced.[18] Competitive service quality in the U.K. is better than that provided by incumbent carriers in the United States – the percentage of unfulfilled calls in the United States is *twice as high* as for the leading U.K. competitor.[19]

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[12] As early as 1969, the FCC declared the long distance market open to competition. But a competitive *retail* long distance market did not develop until the mid-1980s, when the FCC instituted 1+ dialing parity for all long distance providers. *See MTS and WATS Market Structure Phase III*, CC Docket No. 78-72, Report and Order, 100 FCC 2d 860 (1985). The European experience with retail DA competition confirms the importance of dialing parity. *See* Pierz, supra note 10, at 11-59; Telegate Comments at 4-18.

[13] *See* Pierz, supra note 10, at 11-59; Letter from Gerard Waldron, Counsel for InfoNXX, to Marlene H. Dortch, FCC (June 18, 2003); Telegate Reply Comments at 5-8; Telegate Comments at 6-18.

[14] *See* Pierz, supra note 10, at 11-59; Letter from Gerard Waldron, Counsel for InfoNXX, *supra* note 13; Telegate Comments at 6-18.

[15] *See* Pierz, supra note 10; Letter from Gerard Waldron, Counsel for InfoNXX, *supra* note 13.

[16] *See* Pierz, supra note 10.

[17] *Id.*; Letter from Mary Newcomer Williams, Counsel for InfoNXX, to Marlene H. Dortch, FCC (Dec. 11, 2003). Critics have noted that the average call price in the U.K. actually increased after competition. But this change is the result of consumers *choosing* enhanced services, which were formerly not available. Moreover, the ability to choose an enhanced service through a DA short code is exactly the feature denied to American consumers today; the effect of the lack of competition should not used as a reason to resist it. *See* Letter from Mary Newcomer Williams, Counsel for InfoNXX, *supra*; Letter from Gerard Waldron, Counsel for InfoNXX, to Marlene H. Dortch, FCC (Sept. 25, 2003).

[18] *See* Mark Plakias, Zelos Group (May 10, 2004); Mark Plakias, Zelos Group (Feb. 20, 2004).

[19] The Paisley Group reported that 10% of all DA calls are unfulfilled. Paisley Group Ltd. Comments (Jan. 2003). According to independent reporting by Salesnet Ltd., the leading provider in the U.K., "The Number," has an unfulfilled call rate consistently below 5%.

II. The Commission Has the Authority and Obligation to Promote Competition in the Retail Directory Assistance Market and Institute Dialing Parity.

As noted in the NPRM, the Commission has "plenary authority over numbering administration" pursuant to Section 251(e) of the Communications Act.[20] Moreover, the Commission has concluded that its "authority over numbering administration extends to all portions of the North American Numbering Plan [in the United States, including] national 555 numbers."[21] The NPRM asks whether this plenary jurisdiction extends to 411 presubscription. Although the Commission presumably does possess such authority, this proceeding has demonstrated the substantial problems associated with presubscription, and, as discussed below, the commenters interested in DA competition have coalesced around 555-XXXX as an appropriate solution.[22] The Commission has already concluded that it possesses authority over national 555 numbers.[23]

In addition to possessing specific authority in this field, the Commission has the duty to act to promote retail directory assistance competition. As recognized in the NPRM, the Telecommunications Act of 1996 requires the Commission to promote "opening *all* telecommunications markets to competition."[24] The Commission has previously recognized that directory assistance is a distinct market,[25] and it is therefore bound to take actions to promote competition in the retail DA market, just as it has done in the wholesale DA market.[26]

Finally, the Commission has both the authority and the obligation to ensure that carriers adhere to their statutory obligation to provide dialing parity and to handle calls to all validly issued numbers without discrimination. For example, commenters in this proceeding have indicated that incumbent LECs refuse to route calls to validly issued 555 numbers.[27] Indeed, there is even some indication that carriers may be misappropriating calls to others' assigned 555 numbers and rerouting the calls to their own DA services. In any event, the record is clear that carriers routinely handle 555 calls for their own benefit but do not route other 555

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[20] NPRM ¶ 11.

[21] *Id.*

[22] The incumbent LECs conceded that the Commission has authority to designate national 555 numbers for directory assistance. *See* Verizon Comments at 29 (Apr. 1, 2002) ("The Commission may, of course, designate some 555 numbers for use for DA services under its number administration authority. Verizon would have no objection to the Commission's doing so.").

[23] NPRM ¶ 11.

[24] *Local Competition Second Report and Order*, 11 FCC Rcd 19392, 19398 (1996) (emphasis added); *accord* NPRM ¶ 12; H.R. Conf. Rep. 104-458 (1996); *see also* Letter from Baca, Block, and King, Commissioners, New Mexico PRC, to Marlene H. Dortch, FCC 1 (Sept. 18, 2003); John Wine, Commissioner, Kansas Corp. Comm., to Marlene H. Dortch, FCC 1 (Aug. 29, 2003); WorldCom Comments at 9.

[25] *See, e.g.*, NPRM ¶ 13.

[26] *See Provision of Directory Listing Information*, 16 FCC Rcd 2736 (2001).

[27] *See* Metro One Reply Comments at 7; Metro One Comments at 14 (Mar. 27, 2002); Premiere Network Services Comments at i (Apr. 1, 2002); InfoNXX Comments at 10 (Apr. 1, 2002).

calls similarly.[28] The incumbent LECs continue this discriminatory treatment even as they use 555 numbers to solidify their directory assistance monopoly.[29]

III. The Commission Can Promote Retail Directory Assistance Competition.

This proceeding has an extensive and highly developed record in support of promoting directory assistance competition in the retail market. There are several specific steps the Commission should take in order to promote retail directory assistance competition.

A. Implement 555-XXXX for Directory Assistance.

The preferred solution to promote competition is mandatory use of 555-XXXX for all DA providers. Presubscription does not achieve the policy goals set out by the Commission. It is expensive, technically challenging, and would preserve and solidify much of the incumbents' advantage.[30] Moreover, presubscription thwarts a primary benefit of retail directory assistance competition – the ability of consumers to choose different services depending upon their needs, price point, and satisfactory experiences. For example, a consumer who simply needs a number can call a basic service that does not provide enhanced services (555-XXXX), and when that same consumer needs an enhanced service, such as driving directions, she can call a different provider using the same familiar dial string (a different 555-XXXX). Presubscription, of course, achieves dialing parity, but only in the initial decision. In a dynamic market such as directory assistance, where providers will offer a variety of information and feature options, presubscription would lock consumers into one provider. Presubscription precludes parity use of different providers, for example, in a home where some family members speak English and some need a foreign language DA service. While presubscription made sense for the long distance market, in which the service provided is relatively static and fungible, it would be a mistake in a dynamic, data-rich environment such as directory assistance.[31]

There is now a consensus among parties supporting retail DA competition that the use of 555-XXXX numbers for retail DA is the most effective way to promote competition.[32] Commenters have identified four essential elements needed in a retail directory assistance market using 555 numbers.[33] (1) Require all carriers to route calls to any valid 555 number, as was

[28] *See* SBC Reply Comments at 3 n.6, 6, 8 (Apr. 30, 2002). The record also shows, however, that merely activating 555 numbers will not bring real competition to the retail market; the incumbent LECs' use and control of 411 must be eliminated.

[29] *See* InfoNXX Comments at 10.

[30] *See* Verizon Comments; AT&T Comments at 4-9 (Apr. 1, 2002); InfoNXX Comments at 27; NPRM ¶ 31. Carrier access codes and 411-based numbers are also problematic for reasons discussed in detail by various commenters. *See* SBC Comments at 49-51; AT&T Comments at 12-14; InfoNXX Comments at 27-28.

[31] *See* Letter from Mary Newcomer Williams, Counsel for InfoNXX, *supra* note 17.

[32] Letter from InfoNXX, WorldCom, Telegate to Marlene H. Dortch (Mar. 28, 2003); Communications Venture Services Comments (Feb. 8, 2002); *see also* Letter from Gerard Waldron, Counsel for InfoNXX, to Marlene H. Dortch, FCC (May 24, 2001).

[33] Letter from InfoNXX, WorldCom, Telegate, *supra* note 32.

envisioned more than eight years ago when 555 numbers were first allocated. (2) Require all carriers – whether LECs or specialty DA providers – to use only 555 numbers for directory assistance. (3) Discontinue the existing DA dialing strings, 411 and 555-1212, after a three or six month period of transition, in order to facilitate an orderly step to a competitive market. (4) The Commission, working with the North American Numbering Council (NANC), would need to ensure that all DA providers have a 555 number, though that should not be a problem since the 555 numbers have not been used and several thousand are available.[34]

A retail directory assistance system that implements those four elements will promote competition in an efficient and consumer friendly manner for the following reasons:

- The Commission has jurisdiction to implement 555-XXXX for directory assistance. Even the incumbent LECs, although they oppose competition, recognize that "[t]he Commission may, of course, designate some 555 numbers for use for DA services under its number administration authority."[35]

- Using a 555-XXXX format is consumer friendly. People already associate the code with directory assistance because of the use of NPA-555-1212 for national directory assistance. Indeed, according to SBC, some jurisdictions use only 555-1212 for local DA; there is no 411 in these states.[36] In other jurisdictions, LECs route all 555-1212 calls to their 411 call centers, indicating additional consumers who are accustomed to using the 555 format.

- 555-XXXX numbers can be readily instituted. The incumbent LECs recognize that a 555 proposal presents fewer technical challenges because procedures to route 555 numbers already exist.[37] In addition, the industry's committee on technical issues, Alliance for Telecommunications Industry Solutions, adopted 555 assignment guidelines eight years ago, and those guidelines have been submitted in this proceeding.[38] Clearly, the LECs need to recover their just and reasonable expenses on a tariff basis in instituting 555 numbers, but to date the

[34] As documented in this proceeding, the 555 numbering guidelines require that a number be implemented within 18 months to avoid reclamation. NANPA has indicated, however, that no non-LEC 555 number has been activated, and an industry report cited a total absence of 555 access tariffs and interconnection agreements. *See* Letter from Gerard Waldron, Counsel for InfoNXX, *supra* note 32. Because 555 numbers have been fallow for several years, there may be a need for some pruning, refreshment of interest, or reclamation of numbers once 555 numbers are ready to go live. In any event, there are ample number resources in the numbering block to accommodate a range of competitive DA providers.

[35] Verizon Comments at 29.

[36] SBC Reply Comments at 3 n.6.

[37] *See* Verizon Comments at 30 ("NIIF identifies potential technical service interconnection arrangements and dialing plans that could be used by providers of service using 555 line numbers." (quotation omitted)).

[38] Alliance for Telecommunications Industry Solutions, 555 NXX Assignment Guidelines (reissued July 13, 1998) (filed with Letter from Gerard Waldron, Counsel for InfoNXX, *supra* note 32).

incumbents have refused to offer 555 services as envisioned by the Commission and the NANC when the 555 numbers were first awarded eight years ago.

- The existing 411 and 555-1212 codes can be eliminated with minimal disruption. The Commission has the benefit of the experiences of European regulators and their methods of opening retail directory assistance to competition. European experiences show that a timetable permitting consumer education and a period of parallel running of old and new dialing codes can be highly beneficial.[39] By providing time for competitors to develop and launch advertising campaigns, implement a rotating recording system, and offer parallel running, the U.K. regulators greatly eased the transition to new numbers. The results were highly favorable: within 60 days fully 90% of consumers were aware of the transition.[40]

B. Provide a Transition Period.

In this proceeding, industry commenters have suggested a transition period, similar to those adopted in Europe, for the implementation of 555 numbers.[41] Consumers in the United States have successfully adapted to area code changes, area code overlays, and ten digit dialing for local calls. Based on these experiences, the Commission can find that U.S. consumers can adapt to numbering changes with minimal disruptions. The advertising programs and transitional plans to be implemented by new DA competitors would make the shift even smoother.[42] The changes will be easier because tangible consumer benefits will result. Indeed, unlike area code changes, which involve a fair degree of disruption for little tangible benefit to an individual consumer, a new dial string for DA will yield lower prices and better quality service.

C. Ensure Billing and Collection Services that Are Just and Reasonable.

In addition to numbering parity, the Commission must ensure that market advantages possessed by incumbent LECs do not prevent competition from succeeding. Incumbent LECs possess billing relationships with consumers, and competitors need access to these billing and collection services in a competitive market.[43] The FCC has the authority to

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[39] InfoNXX Comments at 22. Germany, the first country to deregulate retail directory assistance, followed this model. During the parallel running period, callers to the old code received a short recording informing them of the coming change. After the old code was deactivated, callers received a separate recording describing the change and directing them to a new number. The U.K. followed a similar model. The new market entrants in the U.K. funded a recording system that used a rotating referral so that all providers were mentioned to callers equally. In addition, competitors launched large and well-funded advertising campaigns, which contributed significantly to consumer education.

[40] *See* Letter from Mary Newcomer Williams, Counsel for InfoNXX, *supra* note 17.

[41] Letter from InfoNXX, WorldCom, Telegate, *supra* note 32.

[42] *See* Pierz, supra note 10, at 16 (noting aggressive advertising competition in the large U.K. market); Telegate Comments at 27.

[43] *See* Letter from InfoNXX and Telegate to Marlene H. Dortch, FCC (Apr. 7, 2003); Metro One Reply Comments at 8; Telegate Comments at 27-28.

require billing services, but it generally has declined to exercise that jurisdiction. The Commission has articulated the view that it "'generally declines to regulate the provision of billing and collection services *unless regulation is needed to protect competition*.'"[44] Factors the Commission established in the pay phone context show that a billing and collection requirement is necessary for retail DA: (1) there is a risk of "'anticompetitive conduct'"; and (2) "'the offering would be cost-prohibitive in the absence of incumbent LEC billing and collection services.'"[45]

(1) Anticompetitive Risk: There is a risk of anticompetitive conduct in incumbent billing services. This stands in contrast to the implementation of long distance competition, when the Commission declined to order billing and collection, because DA competitors would be taking revenue directly from the incumbent LECs.[46]

(2) Cost Prohibitive: Retail directory assistance competitors do not have billing relationships with consumers, and the alternatives, such as credit card billing, are not viable for retail directory assistance.[47] Because of the small amount billed each month in retail DA (the average person makes 1.2 calls per month), it is cost-prohibitive and inefficient for retail DA competitors to bill separately for directory assistance calls.[48] Moreover, a single consumer may use several different DA providers over the course of a year – sometimes choosing an enhanced service, a foreign language provider, or a specialized service, and sometimes a basic service like those offered today. Without incumbent LEC billing and collection, competitive retail DA billing will be exceptionally inefficient, as numerous providers send multiple separate bills to consumers – all for very small amounts.

IV. A Continued Role for the States.

In the NPRM, the Commission noted that, in addition to the exclusive federal jurisdiction over numbering issues, important aspects of retail directory assistance have been regulated by state PUCs.[49] Accordingly, some directory assistance regulatory requirements, such as service quality and free calls, vary by state. The Commission's efforts to promote competition in the retail DA market need not disturb these state regulatory roles.

Following the NPRM, the staff of the NARUC Subcommittee on Telecommunications was directed to review the directory assistance market and report to the association. The staff task force conducted an exhaustive examination of the DA market,

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[44] Letter from InfoNXX and Telegate, *supra* note 43 (quoting *Calling Party Pays*, 14 FCC Rcd 10861 (1999)) (emphasis added).

[45] *Id.*; *see also* Metro One Comments at 24.

[46] *See* Telegate Comments at 27-28.

[47] *See* Letter from Gerard Waldron, Counsel for InfoNXX, *supra* note 10; Telegate Comments at 27-28.

[48] *See* Telegate Comments at 27-28.

[49] NPRM ¶ 54-55. The state commenters agree. *See e.g.*, New Jersey Division of the Ratepayer Advocate Comments (Mar. 18, 2002).

including reviewing the results of European deregulation, assessing the directory assistance market sector in the United States, examining the state of competition in the DA marketplace, and considering various proposals for opening the retail DA market to competition. At the November 2003 NARUC meeting, the task force issued its report.[50] The staff report concluded that "[t]he FCC should take prompt action to adopt rules to promote true DA competition, for both wireline and wireless customers. The status quo is not sustainable."[51] The NARUC report contains a wealth of information on rising prices and profits for incumbent LECs in the U.S., the benefits that competition has brought to the European market, and the strength and weaknesses of proposals to open the U.S. retail DA market. Among the specific policy proposals in the report, the staff task force recommended that regulators "[d]iscontinue the use of 411 and require that the LECs turnup the assigned 555-XXXX codes" and "[k]eep a keen eye on the European experience with deregulation" so as to gather the "important lessons [that] can be learned from the trials and tribulations of others."[52]

In response to a recommendation in the staff task force's report, NARUC adopted a resolution at its March 2004 meeting. The resolution expresses NARUC's strong support for retail directory assistance competition.[53] In recognition of the role of state PUCs, however, NARUC also asked the Commission to implement a national system for directory assistance competition that ensures that states are given an opportunity to "concur in," or, alternatively, "not object to," the introduction of retail DA competition in a given state.[54] This resolution, consistent with the Commission's statements in the NPRM, permits the Commission to adopt a national structure – with timing guidelines and implementation requirements for numbering resources – while preserving an important role for state regulators.[55]

V. Implementing Retail Directory Assistance Competition.

Since the issuance of the NPRM, the Commission has developed an extensive record from which it can adopt steps to promote competition in the retail directory assistance market. Consistent with the record evidence outlined above, the Commission should adopt a structured process for opening the market to competition.

First, the Commission should create a process for the national allocation of 555 numbers to all directory assistance providers, including existing incumbent LECs and competitors seeking to enter the retail market. The numbers and ranges must be consistent, providing dialing parity across all providers. Any exceptions for certain number ranges (such as

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[50] NARUC Telecommunications Subcommittee Staff Report, *$4.11* (Nov. 2003).

[51] *Id.* at 2.

[52] *Id.* at 4.

[53] NARUC Resolution (filed with Letter from Gerard Waldron, Counsel for InfoNXX, to Marlene H. Dortch, FCC (Apr. 1, 2004)).

[54] *Id.*

[55] Commenters support a national structure with a role for states. *See* Metro One Comments at 27-28; New Jersey Division of the Ratepayer Advocate Comments at 6.

the entertainment industry numbers) or for those numbers already assigned must be clearly established. In addition to the elimination of 555-1212, the Commission may consider restricting access to "golden numbers" that are so distinct as to give an unfair competitive advantage.

Second, the Commission should provide for a national timeline to move to retail DA competition. This timeline must establish a period before the short code is removed and in which regulators and operators can educate consumers about the change, incumbents and competitors can implement the necessary technical capacities for network interconnection, and for consumers will hear (on 411 and 555-1212) recordings notifying them of the changes. The timeline should then provide for a period of parallel running of the new and old codes, leading up to the date on which 411 and 555-1212 are retired. During this period, incumbents must be prohibited from engaging in anticompetitive promotion of their new codes on their own networks, including promoting their codes on billing inserts, telephone books, the DA recordings, and other aspects of the incumbent LECs' networks. Finally, if the Commission elects a state-by-state implementation, the timeline should provide for consistent state implementation, including the consumer education period, the transition, and the timing of the removal of 411.

Third, the Commission should provide for a period in which state PUCs, consistent with the NARUC resolution, can review the directory assistance market in their states, and determine if any adjustments to existing regulations are necessary in light of the national deregulation and the implementation of dialing parity. Using FCC-established baselines, the state PUCs would have a window in which to provide for dialing parity and the retirement of 411 and 555-1212.

Fourth, the Commission should establish that LECs must route and bill for 555 calls, and they can have mechanisms in place to recover their just and reasonable costs for providing these services.

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In the two and a half years since issuing the NPRM, the Commission has developed a comprehensive record supporting the promotion of competition in the retail directory assistance market. These policy goals are consistent with the Telecommunications Act of 1996, and these steps would bring extensive price and service benefits to consumers. A number of solutions have been examined, and the retirement of 411 short code with the establishment of uniform 555 access numbers will provide the greatest benefit to consumers with minimal disruption.